

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

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CARL BARRETT,

Plaintiff,

v.

Case No. 20-C-1128

ARMOR CORRECTIONAL  
HEALTH SERVICES, INC., et al.,

Defendants.

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**DECISION AND ORDER**

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Plaintiff Carl Barrett is representing himself in this 42 U.S.C. §1983 action. On March 16, 2021, Defendants Armor Correctional Health Services, Inc., Mahita Gone, and Mercy Mahaga (the Armor Defendants) filed a motion for summary judgment on the ground that Barrett failed to exhaust the available administrative remedies before initiating this lawsuit. Dkt. No. 37. A couple of days later, on March 18, 2021, Defendants Nancy Evans, Matthew McCoy, Janine Montoya, Devonta Townes, and Jackeline Velez (the County Defendants) moved for summary judgment on the same basis. Dkt. No. 41.

Barrett responded to the Armor Defendants' summary judgment motion on April 21, 2021, Dkt. No. 52, and to the County Defendants' summary judgment motion on April 28, 2021, Dkt. No. 53-54. On May 4, 2021, Barrett filed a response to the County Defendants' proposed findings of fact<sup>1</sup>, two declarations, two sets of his own proposed findings of fact, and supporting documents. Dkt. Nos. 56-58. Barrett acknowledged that his proposed findings of fact "should have been

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<sup>1</sup> The Armor Defendants did not file a statement of proposed material facts as to which they contend there is no genuine issue and that entitle them to a judgment as a matter of law. *See Civil L. R. 56(b)(1)(C).*

submitted in conjunction with [his] response to Defendants' Summary Judgment." Dkt. No. 57 at 1. However, he explained that he was submitting them "now because as of today's date Defendants have not responded yet."<sup>2</sup> *Id.* The Armor Defendants filed their reply the next day, on May 5, 2021. Dkt. No. 61.

On May 6, 2021, the Armor Defendants filed a motion to strike Barrett's proposed findings of fact or, in the alternative, to allow them time to respond and to preclude Barrett from filing any additional documents in response to their summary judgment motion. Dkt. No. 64. The Court will grant the alternative relief that the Armor Defendants seek. Barrett concedes that he should have submitted all of his responsive filings at once, but given that he is pro se, the Court will overlook this error. The Court cautions Barrett that, in the future, he must submit all responsive filings at once. It is confusing and potentially prejudicial to Defendants when responsive filings trickle in over time.

The Armor Defendants may have until May 17, 2021 to respond to Barrett's proposed findings of fact (Dkt. Nos. 57, 58). Now that the Armor Defendants' motion for summary judgment is fully briefed, Barrett may not file any other documents relating to that motion.

**IT IS THEREFORE ORDERED** that the Armor Defendants' motion to strike (Dkt. No. 64) is **DENIED in part** and **GRANTED in part**. The Armor Defendants must respond to Barrett's proposed findings of fact (Dkt. Nos. 57, 58) by **May 17, 2021**.

Dated at Green Bay, Wisconsin this 10th day of May, 2021.

s/ William C. Griesbach  
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William C. Griesbach  
United States District Judge

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<sup>2</sup> Barrett's responsive filings are confusing because it is unclear whether a particular filing was submitted in response to the Armor Defendants' summary judgment motion or the County Defendants' summary judgment motion. In the future, when responding to a motion, Barrett should take care to label his filing clearly to indicate which motion he is responding to.